

REMARKS

Claim 17, which had been indicated as being allowable but objected to as being dependent upon a rejected base claim, has been rewritten in independent form, including all of the limitations of the base claim. Claims 2-4, and 6-8, which each depended from claim 1, have been rewritten to depend from claim 17. Claim 1 has been canceled without prejudice.

Claim 34, as originally pending, had been indicated as being allowable but objected to as being dependent upon a rejected base claim. Claim 34 has been rewritten in independent form as new claim 63, with a minor clarifying amendment (see amendment to claim 34). New claims 64-66, which depend from new claim 63, have been rewritten from originally pending claims 40-42 to depend from claim 63.

Claim 42, as originally pending, had been indicated as being allowable but objected to as being dependent upon a rejected base claim. Claim 42 has been rewritten in independent form as new claim 67. New claims 68 and 69, which depend from new claim 67, have been rewritten from originally pending claims 34 and 39 to depend from claim 67.

Claim 32 has been amended to recite that at least two agents/gas delivery outlets are "flush" with a surrounding surface of the device. Support for this amendment can be found throughout the specification, for example, on page 11, lines 5-8.

Claim 33 has been amended to recite a means for regulating wherein, while the device is in operation and in a fluid delivery off setting, gas flow is maintained at a flow level sufficient to remove any fluid present at the fluid delivery outlet. Support for this amendment can be found throughout the specification, for example, on page 12, lines 4-31.

Claim 34 has been amended to add clarity

No new matter has been added by these amendments. Claims 2-69 are now pending in the application, with claims 5, 9-16, 18-31, 35-38, and 43-62 being withdrawn from consideration.

Interview with Examiner

Applicant's representatives thank the Examiner for the courtesy of a telephone interview conducted on June 29, 2004. The present response addresses all substantive points discussed during the interview. That is, this response is a complete written statement of any reasons presented during the interview as warranting favorable action as required by 37 C.F.R. §1.133.

Restriction Requirement

Although the Restriction Requirement has been deemed proper and made final, it is believed that the Patent Office is incorrect in stating that “if Applicant’s specification includes other different species, they should have been shown in the drawings. The drawings must show every feature that is described in the claims.” 35 U.S.C. §113 states, in relevant part, “the Applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented.” §113 does not require that every feature of every claim be shown in a drawing. Although now moot since the Restriction Requirement has been made final, Applicants do not concede to the accuracy of any of the Patent Office’s statements with respect to the restriction requirement.

Drawings

Applicants note that the indentations 35 referenced in Figs. 3 and 4 refer to the indentations of the planar surface 31 surrounding tubes 29 and 34, and not indentations of tubes 29 and 34. Thus, the figures are correct as shown.

Rejections under 35 U.S.C. §102(b)

Claims 1-4, 6-8, 32, 33, 40, and 41 have been rejected under 35 U.S.C. §102(b) as being anticipated by Fukunaga, et al., U.S. Patent No. 5,582,596 (“Fukunaga”).

With respect to claims 1-4 and 6-8, claim 1 has been canceled, and claims 2-4 and 6-8 have been rewritten to depend from claim 17, which was not rejected in view of Fukunaga. Accordingly, it is respectfully requested that the rejection of these claims be withdrawn.

Regarding claim 32, it is not seen where in Fukunaga is there a disclosure or suggestion of at least two agents/gas delivery outlets that are flush with a surrounding surface of the device. Accordingly, it is believed that claim 32, as amended, is allowable in view of Fukunaga. It is thus respectfully requested that the rejection of claim 32 be withdrawn.

With respect to claims 33, 40, and 41, it is not seen where in Fukunaga is there a disclosure or suggestion of a means for regulation in which, while the device is in operation and in a fluid delivery off setting, gas flow is maintained at a flow level sufficient to remove any

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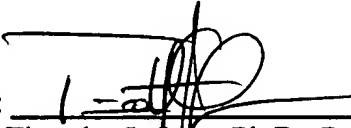
fluid present at the fluid delivery outlet, as recited in independent claim 33, as amended. Accordingly, it is respectfully requested that the rejection of claim 33 be withdrawn. Claims 40 and 41 each depend from claim 33, and are believed to be allowable for at least the same reasons. Withdrawal of the rejection of claims 40 and 41 is also therefore respectfully requested.

CONCLUSION

In view of the foregoing remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this response, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representatives at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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